

1 **ARIZONA STATE BOARD OF PHARMACY**
2 **1700 W. Washington Street, Room 250**
3 **Phoenix, Arizona 85007**
4 **602-771-2727**

5 **IN THE MATTER OF :**

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER NO. 07-0037-PHR**

6 In the Matter of

7 **JOEL FRHAM**

8 Holder of Pharmacy Technician License No. 11905
9 in the State of Arizona

10 Respondent

11 On September 12, 2007 the Arizona State Board of Pharmacy ("Board") considered the State's
12 Motion to Deem Allegations Admitted at the Board of Pharmacy Offices, 1700 W. Washington Street,
13 Room 312, in Phoenix, Arizona. Elizabeth Campbell, Assistant Attorney General, appeared on behalf
14 of the State. Respondent did not appear. The Board was represented by Assistant Attorney General
15 Chris Munns, with the Solicitor General's Section of the Attorney General's Office.
16

17 On September 12, 2007 the Board granted the State's Motion to Deem Allegations Admitted.
18 Based upon A.R.S. § 32-1927(O) and the Complaint and Notice of Hearing No. 07-0037-PHR filed in
19 this matter, the Board issues the following Findings of Fact and Conclusions of Law, and Order
20 revoking Respondent's license.
21

22 **PARTIES AND JURISDICTION**

23 1. The Arizona State Board of Pharmacy ("Board") is the duly constituted authority for
24 licensing and regulating the practice of pharmacy in the State of Arizona.
25

26 2. Joel Frham ("Respondent") is the holder of license number 11905, which allows him to
27 practice as a pharmacy technician trainee in the State of Arizona.
28

29 3. Under A.R.S. § 32-1901, *et seq.*, the Board possess jurisdiction over the subject matter

1 and over Respondent as a licensee of the Board.

2 FINDINGS OF FACT

3 1. During all times relevant to these Findings, Respondent was employed as a pharmacy
4 technician at CVS Pharmacy #9279 ("Pharmacy") in Fountain Hills, Arizona.
5

6 2. On or about November 6, 2006, the Pharmacy interviewed Respondent concerning a
7 loss of controlled substances identified as Hydrocodone/APAP 10/325mg. Respondent admitted to
8 Pharmacy officials that he stole 250 Hydrocodone/APAP 10/325mg for personal consumption.
9 Respondent was terminated from employment.
10

11 3. On or about November 13, 2006, the Pharmacy reported to the theft of controlled
12 substance drugs to the DEA. The Pharmacy also reported the incident to the Board.

13 4. Hydrocodone is a Schedule II controlled substance as defined in A.R.S. §36-
14 2513(A)(1)(a)(x).
15

16 5. A subsequent Board controlled substance audit documented a shortage of 1,636 unit
17 doses of Hydrocodone/APAP in various strengths. The audit did not disclose who was responsible for
18 the shortage.
19

20 CONCLUSIONS OF LAW

21 1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant
22 to A.R.S. § 32-1901 *et seq.*

23 2. The Board may discipline a pharmacy technician who has engaged in unprofessional
24 conduct. A.R.S. § 32-1927.01(A)(1).
25

26 3. The conduct and circumstances described above constitutes unprofessional conduct
27 pursuant to A.R.S. § 32-1901.01(C)(6) ("Committing a felony, whether or not involving moral
28 turpitude, or a misdemeanor involving moral turpitude or any drug- related offense. In either case,
29

1 conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the
2 commission.”).

3 4. A person commits theft if, without lawful authority, the person knowingly controls
4 another person’s property with the intent to deprive that other person of such property. A.R.S. § 13-
5 1802(A)(1). Theft of property with a value of three thousand dollars or more but less than twenty-five
6 thousand dollars is a class 3 felony. Theft is a crime of moral turpitude. *Du Vall v. Board of Medical*
7 *Examiners of Arizona*, 49 Ariz. 329, 339, 66 P.2d 1026, 1031 (1939); *State v. Superior Court of Pima*
8 *County*, 121 Ariz. 174, 175-76, 589 P.2d 48, 49-50 (App. 1978) (shoplifting involves moral turpitude
9 and bears a close relationship to the common law crime of larceny).
10
11

12 5. A person may not knowingly acquire or possess a prescription-only drug unless the
13 person obtains the prescription-only drug pursuant to a valid prescription of a licensed prescriber.
14 A.R.S. § 13-3406(A)(1). Furthermore, a person may not knowingly obtain or procure the
15 administration of a prescription-only drug by fraud, deceit, misrepresentation or subterfuge. A.R.S. §
16 13-3406(A)(6). In either case, such illegal acquisition, possession or procurement of a prescription-
17 only drug is a class 1 misdemeanor. A.R.S. § 13-3406(B)(1). “The sale or dispensing or prescribing
18 of narcotic drugs, except for medicinal use and under strict surveillance, [involves] moral turpitude.”
19 *Du Vall*, 49 Ariz. at 337, 66 P.2d at 1030.
20
21

22 6. A person may not knowingly or intentionally acquire or obtain possession of a
23 controlled substance by means of forgery, fraud, deception or subterfuge. A.R.S. § 36-2531(E). A
24 person who violates this statute is guilty of a class 4 felony..

25 7. The conduct and circumstances described above constitute unprofessional conduct
26 pursuant to A.R.S. § 32-1901.01(C)(8) (“Violating a federal or state law or administrative rule
27 relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or
28 precursor chemicals when determined by the board or by conviction in a federal or state court.”)
29

1 **ORDER**

2 In view of the above Findings of Fact and Conclusions of Law, the Board issues the following
3 Order:

4 Pharmacy Technician license number No. 11905 issued to Joel Frahm is revoked. A.R.S. § 32-
5 1927.01(A)(1).
6

7 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

8 Respondent is hereby notified of the right to petition for a rehearing or review by filing a
9 petition with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S.
10 § 41-1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.C.C.
11 R4-23-128. Service of this order is effective five (5) days after date of mailing.
12

13 If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days
14 after it is mailed to Respondent.

15 Respondent is further notified that the filing of a motion for rehearing is required to preserve
16 any rights of appeal to the Superior Court.
17

18 DATED this 27th day of September, 2007.
19

20
21 **ARIZONA STATE BOARD OF PHARMACY**

22 SEAL

23
24 

25
26 Hal Wand, R.Ph.
27 Executive Director
28
29

COPIES mailed this 28 day of September 2007, by
Certified Mail Receipt No.

Jeffrey P. Rabe

to:

7007 0710 0001 0440 8797

Joel Frahm
13225 N. Fountain Hills Blvd.
Fountain Hills, Arizona 85268

COPIES of the foregoing mailed this 28 day of September 2007, to:

Elizabeth Campbell,
Assistant Attorney General

and

Christopher Munns,
Assistant Attorney General, Solicitors Office

Both located at
1275 W. Washington
Phoenix, AZ 85007